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SENATE

{ REPORT  
{ 105-284

### NEOTROPICAL MIGRATORY BIRD CONSERVATION ACT

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JULY 31, 1998.—Ordered to be printed

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Mr. CHAFEE, from the Committee on Environment and Public Works, submitted the following

### REPORT

[To accompany S. 1970]

The Committee on Environment and Public Works, to which was referred the bill (S. 1970) to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds, having considered the same, reports favorably thereon with amendments, and recommends that the bill, as amended, do pass.

#### GENERAL STATEMENT AND BACKGROUND

Each autumn, some 5 billion birds from 500 species migrate between their breeding grounds in North America and tropical habitats in the Caribbean, Central and South America. These neotropical migrants—or New World tropical migrants—are birds that migrate between the biogeographic region stretching across Mexico, Central America, much of the Caribbean, and the northern part of South America. They comprise a vast array of birds well known to many in the Americas: ducks and other waterfowl; raptors; shorebirds such as sandpipers and plovers; terns and gulls; nightjars; swifts; martins; hummingbirds; woodpeckers; flycatchers; thrushes; vireos; tanagers; warblers; buntings; orioles; blackbirds; and dozens of other species. In some parts of the United States and Canada, almost all of the birds migrate to the tropics for the winter. Of those that breed in the northern coniferous forests, for example, 80 percent of the species and 94 percent of the individuals migrate to the tropics. About 62 percent of the species and 75 percent of the individuals that breed in the eastern deciduous forests

migrate. Migrants breeding in the central grasslands comprise 76 percent of the species and 73 percent of the individuals.

The aggregate figures tell only part of the story, however. A fuller appreciation of the nature of migratory birds can be acquired by considering the individual odysseys of some of these species. Turkey vultures, with a wingspan of greater than 5½ feet, migrate from their winter home in the southern United States, Mexico or Central America so punctually each spring that in Hinckley, Ohio, a festival celebrates their return each March 15th. Although Sandhill cranes breed in relatively small and scattered populations across the northern United States, Canada and Alaska, during their northward migrations from Mexico and Central America, upward of half a million birds may be found at staging areas such as along the Platte River in Nebraska. Killdeer living in the northern United States migrate up to 6,000 miles, often straying far from their normal routes, observed in Europe, Greenland, and Hawaii. The Ruby-throated hummingbird, with a four-inch wing span, will travel up to 3,500 miles, making the 500 mile crossing of the Caribbean without stopping. The Blackpoll warbler, after migrating from Alaska to Nova Scotia, will first begin a southern journey over the Atlantic to Venezuela, with a staging area in Bermuda.

The natural challenges facing these migratory birds are profound. Many migratory birds experience a relatively low survival rate, due to nest predation and brood parasitism, as well as natural competition among species, predation and general hazards along their migratory routes. Human induced threats have exacerbated these challenges. The greatest human induced threat is the continuing loss of habitat in the Caribbean and Latin America, both in staging areas and wintering areas of these species. Pollution, including widespread use of pesticides, and overharvesting have also taking their toll on migratory bird populations in the United States, Latin America, and the Caribbean. Some of these impacts are magnified because the birds assemble in relatively small patches of habitat during their migrations, so that adverse impacts to those areas can have exaggerated impacts on the species. Such is the case with the dickcissel, which breeds across much of the eastern United States, but winters in only a narrow stretch of Venezuelan grasslands. The species is threatened by continuing use of pesticides, and trapping, in these grasslands.

As a result of these impacts, populations of migratory birds have declined generally in recent years. Approximately 210 species of migratory birds in the United States are in serious decline, with 90 species either threatened or endangered under the Endangered Species Act. The Mexican government has identified approximately 390 species of birds as being endangered, threatened, vulnerable or rare. Many of these are neotropical migratory birds.

While there are numerous efforts underway to protect these species and their habitat, they generally focus on specific categories of migratory birds or specific regions in the Americas. For example, in 1986, Canada and the United States entered into the North American Waterfowl Conservation Plan, joined by Mexico in 1994. This plan emphasizes waterfowl and wetlands conservation, although efforts are now being made to include other species sharing wetlands habitat. In 1991, the National Fish and Wildlife Founda-

tion began the neotropical Migratory Bird Conservation program, commonly known as Partners in Flight. This program provides funding, in cooperation with the U.S. Agency for International Development, for conservation projects in the Caribbean and Latin America, but not the United States. The Western Hemisphere Shorebird Reserve Network, a monitoring program that extends across the Americas, focuses on only shorebirds. Other monitoring plans and action plans exist for specific types of migratory birds and specific regions.

These programs have improved protections for some species of birds. For example, a joint project among the U.S. Departments of the Interior, Defense, and Agriculture, the Canadian and Argentinean Governments, the Boise State University's Raptor Research Center, and the Fish and Wildlife Foundation discovered the cause of sharp declines in certain populations of the Swainson's hawk, and took actions to redress these declines. The Swainson's hawk is a neotropical migrant that breeds in grassland, shrubsteppe, and agricultural habitats in North America, and winters in Argentina. Certain populations that bred in the western United States and Canada were exposed to pesticides on their wintering grounds in the La Pampa province of Argentina. Under the program, the Ciba-Geigy Company voluntarily imposed a ban on the sale of certain agrochemical compounds in the areas where the high mortality was occurring, and the decline in these populations of Swainson's hawks seems to have halted.

While this example illustrates progress in protecting migratory birds, it also underscores the need for additional projects. More importantly, as noted by the witnesses at the hearing before the committee on July 7, there is a need for a more comprehensive program to address the varied and significant threats facing the numerous species of migratory birds across their range. Frequently there is little, if any, coordination among the existing programs, nor is there any one program that serves as a link among them. A broader, more holistic approach would bolster existing conservation efforts and programs, fill the gaps between these programs, and promote new initiatives.

Migratory birds, apart from their intrinsic value, contribute to our aesthetic, environmental, and economic well-being. Many of these species protect crops and forests by feeding on insect pests. The ability of birds to control pest insects in both croplands and forests is well established, both by recent scientific studies, such as a U.S. Department of Agriculture estimate that a population of 3,000 Swainson's hawks in the western United States eat more than one million rodents each summer, and by rich anecdotal evidence, such as the rescue of the Mormon pioneers from an outbreak of grasshoppers by a flock of gulls. Many migratory birds feed on nuisance and health pests, such as flies and mosquitoes, and further help maintain healthy ecosystems by dispersing seeds and pollinating plants.

In addition to these environmental benefits, birds support a significant component of the economy. According to one study by the University of Georgia, bird watching is the fastest growing recreational activity in the country. Nearly 70 million Americans spend more than \$20 billion each year participating in bird-related

recreation. Bird festivals around the country have blossomed: from five in 1985, there were 60 held in 1997. No fewer than nine professional sports teams in all four organized team sports (hockey, football, baseball and basketball) are named after various species of birds. These statistics reinforce the fact that birds, particularly neotropical migratory birds, are popular and endearing symbols of our country.

#### OBJECTIVES OF THE LEGISLATION

The purpose of this legislation is to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

#### SECTION-BY-SECTION ANALYSIS

##### *Section 1. Short Title*

This section provides that the bill may be cited as the "Neotropical Migratory Bird Conservation Act."

##### *Section 2. Findings*

This section contains the findings of Congress. Birds constitute one of the most widely recognized and appreciated components of North American wildlife. Birds provide significant environmental and economic benefits to the United States. Many North American bird species, nevertheless, are in decline, and 90 in North America are already listed as endangered or threatened. Of the nearly 800 bird species known to occur in the United States, approximately 500 migrate among nations; the large majority of those species, the neotropical migrants, winter in Latin America and the Caribbean. The primary reason for the declines is habitat loss and degradation.

Conservation of these species requires that safeguards be established at both ends of the migration routes as well as at critical stopover areas along the way, and establishing such safeguards necessitates the joint commitment and effort of all nations that support those species, as well as all levels of society. While numerous initiatives exist to conserve migratory birds, those initiatives can be significantly strengthened and enhanced by coordination of their efforts. This bill constitutes an effort to adopt appropriate measures for the protection of migratory birds in collaboration with other nations, States and other entities, and to link other initiatives protecting these species.

##### *Section 3. Purposes*

This section identifies the six following purposes of the bill: (1) to assist in the conservation of neotropical migratory birds by supporting neotropical migratory bird conservation programs in Latin America, the Caribbean and the United States, with a focus on reversing habitat loss and degradation; (2) to promote partnerships between Federal, State, and non-governmental entities in the United States in the conservation of neotropical migratory birds; (3) to foster active governmental and nongovernmental participation in neotropical migratory bird conservation by cooperating countries throughout Latin America and the Caribbean; (4) to promote cir-

cumstances under which the conservation of neotropical migratory birds in Latin America and the Caribbean may be carried out by local entities; (5) to provide financial resources for projects that support neotropical migratory bird conservation; (6) to promote the effective conservation of neotropical migratory birds in the Western Hemisphere through collaboration at all levels of society.

#### *Section 4. Conservation Assistance*

This section requires the Secretary of the Interior, acting through the Director of the Service, to establish a program to provide financial assistance for projects to promote the conservation of neotropical migratory birds. Entities eligible to receive financial assistance include: a Federal, State, or local governmental entity of the United States; a United States nongovernmental organization, corporation or business interest, or other private entity; a governmental or nongovernmental organization, corporation or business interest, or other private entity in Latin America, the Caribbean or the United States; or an international organization that is dedicated to achieving the purposes of this bill.

A project proposal must meet five requirements to be considered for financial assistance. First, the proposal must demonstrate that the project will enhance the conservation of neotropical migratory birds in the United States, Latin America or the Caribbean by focusing on reversing habitat loss and degradation. Second, a proposal must include mechanisms to ensure adequate local public participation in project development and implementation. Third, it must contain assurances that the project will be implemented in consultation with appropriate local and other government officials with jurisdiction over the resources addressed by the project. Fourth, a proposal must demonstrate sensitivity to local historic and cultural resources and comply with applicable laws. Finally, it must provide any other information that the Secretary considers to be necessary for evaluating the proposal.

To the maximum extent practicable, each project shall aim to support or establish such structures as are necessary to ensure achievement of conservation objectives specified in this Act, including the long-term operation and maintenance of the project by local entities in the country in which the project is carried out.

The Federal share of the cost of each project shall be not greater than 33 percent. At the same time, not less than 50 percent of the required non-Federal share shall be paid in cash by: United States non-governmental organizations; international non-governmental organizations; States and other United States non-Federal entities; and corporations, business interests, and other private entities. A local entity in a foreign country in which the project is carried out may provide the required non-Federal share in cash or in-kind contributions from local sources in the country.

#### *Section 5. Neotropical Bird Advisory Committee*

This section establishes a Neotropical Migratory Bird Advisory Committee (the Committee) to assist in carrying out the Act. Membership in the Committee shall include nine permanent members: one representative each of the Service, the U.S. Agency for International Development, and the U.S. Department of State; one rep-

representative appointed by the International Association of Fish and Wildlife Agencies; one representative appointed by the National Fish and Wildlife Foundation; and four individuals appointed by the Secretary of the Interior, each of whom shall represent an entity that has a strong interest and involvement in neotropical bird conservation and shall serve for a two-year term. The representative of the Service shall chair the Committee. The Committee shall also include three nonvoting members who are natives and residents of Latin America or the Caribbean and are actively involved in local conservation efforts. These members shall serve in an advisory capacity and for a two-year term.

The duties of the Committee include assisting in the development of guidelines for the solicitation of proposals for projects eligible for financial assistance, and promoting participation in the program by public and private non-Federal entities. The Committee is also charged with reviewing and recommending to the Secretary proposals for financial assistance, and coordinating and facilitating grant processes among entities involved in neotropical bird conservation.

The Committee shall hold such meetings as are necessary to carry out the duties of the Committee. A member of the Committee shall not receive any compensation for service on the Committee, except travel expenses. An entity represented by a member of the Committee shall not be eligible to receive financial assistance.

#### *Section 6. Duties of Secretary*

This section provides that the Secretary shall facilitate consideration of projects by the Committee, and otherwise assist the Committee in carrying out its duties. The Secretary shall also select proposals for financial assistance, develop and oversee agreements to provide financial assistance, seek cooperators described in section 7, translate documents into Spanish, and generally manage implementation of the Act.

#### *Section 7. Cooperation*

This section states that the Secretary shall cooperate with appropriate entities, including appropriate officials in countries where projects are proposed to be carried out or are being carried out, the heads of other Federal agencies, and entities carrying out initiatives that support bird conservation in Latin America and the Caribbean.

#### *Section 8. Report to Congress*

This section requires that, not later than December 31, 2002, the Secretary shall submit to Congress a report on the results and effectiveness of the program, including recommendations as to whether the program should be continued, and if so, recommendations to improve it.

#### *Section 9. Authorization of Appropriations*

This section authorizes \$8 million to be appropriated for each of the fiscal years from 1999 through 2001, to remain available until expended, of which not less than 50 percent and not more than 70 percent of the amounts made available for each fiscal year shall be

expended for projects carried out outside the United States. Of the amounts made available to carry out this legislation each fiscal year, the Secretary may use not more than 6 percent to pay administrative expenses.

#### HEARINGS

The Committee on the Environment and Public Works held a hearing on S. 1970 on July 7, 1998. Testimony was received from Mr. John Rogers, Deputy Director of the U.S. Fish and Wildlife Service; Ms. Ginette Hemley, Vice President for Species Conservation, World Wildlife Fund; and Mr. Gary J. Taylor, Legislative Director of the International Association of Fish and Wildlife Agencies. Senators Abraham and Daschle, as well as the National Audubon Society, submitted written testimony.

#### LEGISLATIVE HISTORY

On April 22, 1998, Senator Abraham introduced S. 1970, which was referred to the Committee on Environment and Public Works. On Wednesday, July 22, 1998, the committee held a business meeting to consider this bill. Senator Chafee offered an amendment, which was adopted by voice vote. S. 1970, as amended, was favorably reported out of the committee by voice vote.

#### REGULATORY IMPACT

In compliance with section 11(b) of rule XXVI of the Standing Rules of the Senate, the committee makes this evaluation of the regulatory impact of the reported bill. The reported bill will have no regulatory impact. This bill will not have any adverse impact on the personal privacy of individuals.

#### MANDATES ASSESSMENT

In compliance with the Unfunded Mandates Reform Act of 1995 (Public Law 104-4), the committee finds that this bill would impose no Federal intergovernmental unfunded mandates on State, local, or tribal governments. The bill does not directly impose any private sector mandates.

#### COST OF LEGISLATION

Section 403 of the Congressional Budget and Impoundment Control Act requires that a statement of the cost of the reported bill, prepared by the Congressional Budget Office, be included in the report. That statement follows:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 23, 1998.*

Hon. JOHN H. CHAFEE, *Chairman,*  
*Committee on Environment and Public Works,*  
*U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1970, the Neotropical Migratory Bird Conservation Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Deborah Reis, who can be reached at 226–2860 and Marjorie Miller (for State and local impact), who can be reached at 225–3220.

Sincerely,

JUNE E. O'NEILL,  
*Director.*

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CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

*S. 1970, Neotropical Migratory Bird Conservation Act, as ordered reported by the Senate Committee on Environment and Public Works on July 22, 1998*

*Summary*

S. 1970 would direct the U.S. Fish and Wildlife Service (USFWS) to create a new grant program for projects to conserve neotropical migratory birds in the United States and Caribbean and Latin American countries. The program would provide financial assistance to eligible federal, state, or local government agencies; governments of Caribbean or Latin American countries; and private organizations, corporations, or persons. The bill also would establish a 12-member advisory committee to assist the USFWS in developing proposal guidelines, promoting participation in the program, and reviewing proposals. Members of the advisory committee would not receive compensation for such service.

For the purposes of developing and administering the program (including travel expenses of the advisory committee) and making grants, S. 1970 would authorize the appropriation of \$8 million annually for fiscal years 1999 through 2001. S. 1970 would not affect direct spending or receipts; therefore, pay-as-you-go procedures would not apply. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would impose no costs on state, local, or tribal governments.

*Estimated cost to the Federal Government*

Assuming appropriation of the authorized amounts, CBO estimates that implementing S. 1970 would cost the federal government \$24 million through 2003. For purposes of this estimate, CBO assumes that S.1970 will be enacted by the beginning of fiscal year 1999 and that the entire amounts authorized will be appropriated for each year. Outlay estimates are based on spending patterns for similar programs. The costs of this legislation fall within budget function 300 (natural resources and environment). The estimated budgetary impact of S. 1970 is shown in the following table.

By Fiscal Year, In Millions of Dollars

	1999	2000	2001	2002	2003
Spending Subject to Appropriation					
Authorization Level .....	8	8	8	0	0



By Fiscal Year, In Millions of Dollars

	1999	2000	2001	2002	2003
Estimated Outlays .....	3	6	8	5	2

*Pay-as-you-go considerations:* None.

*Estimated impact on State, local, and tribal governments*

S. 1970 contains no intergovernmental mandates as defined in UREA and would impose no costs on state, local, or tribal governments. State and local governments would be among the entities eligible to receive the financial assistance authorized by this bill. In order to receive assistance for a project, these governments would be required to submit a proposal meeting certain criteria and to pay at least 67 percent of the project costs. Any such costs incurred by state or local governments would be voluntary.

*Estimative impact on the private sector:* This bill would impose no new private-sector mandates as defined in UMRA.

*Estimate prepared by:* Federal Costs: Deborah Reis (226–2860); Impact on State, Local, and Tribal Governments: Marjorie Miller (225–3220).

*Estimate approved by:* Paul N. Van de Water, Assistant Director for Budget Analysis.

#### CHANGES IN EXISTING LAW

Section 12 of rule XXVI of the Standing Rules of the Senate requires publication of any changes in existing law made by the reported bill. This bill does not change existing law.

